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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/582,763	06/13/2006	Mark Goldberg	1384MMG-US	6655
7590	07/05/2007			
David Klein Dekel Patent Ltd Beit HaRof'im 18 Menuha VeNahala Street Room 27 Rehovot, ISRAEL			EXAMINER LEE, JOHN R	
			ART UNIT 2878	PAPER NUMBER
			MAIL DATE 07/05/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

**Application No.**

10/582,763

**Applicant(s)**

GOLDBERG, MARK

**Examiner**

John R. Lee

**Art Unit**

2878

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 13 June 2006.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 13 June 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date <u>06/13/2006</u> . | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rizescu et al. (cited by the applicant).

Rizescu et al. teach using a DER system and method for determining the presence of material of a particular Z. Therefore, since it is old in the art to look for SNMs in shipping containers and vehicles, it would have been obvious to use the method and apparatus of Rizescu et al. to look for SNMs, which have high Z, it would have been obvious to one of ordinary skill in the art to look for materials having a high Z as opposed to a low Z as recited in these claims. Furthermore, it would have been obvious to look specifically for high-Z SNMs since it is notoriously old in the art to screen for SNMs using gamma ray radiography techniques.

Claims 5-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rizescu et al. (cited by the applicant) in view of Ettinger et al (cited by the applicant).

Rizescu et al. clearly disclose a DER system for determining the location of material having a particular Z. Rezescu et al. fail to specifically teach an ion-beam

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accelerator and target for producing gamma rays. However, it is notoriously old in the art to produce gamma rays from an ion accelerator and target. Ettinger et al. for example teach just such a method of producing gamma rays for detecting material of interest. Since this provides a more controllable source of gamma rays than the nuclear source of Rizescu et al., one of ordinary skill in the art would have been motivated to substitute the accelerator for the nuclear source so as to obtain a more controllable source.

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

The prior art cited teaches various gamma-ray techniques for detecting materials of interest, contraband, etc. Of particular interest is Brondo, Jr. (WO 2005/121756), which teaches much of the present invention, but has a filing date later than applicant's priority date.

Any inquiry concerning this communication should be directed to John R. Lee at telephone number (571) 272-2477.



JOHN R. LEE  
PRIMARY EXAMINER